(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

CRIMINAL MISC. APPLICATION NO. 90 OF 2004.

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. S.N. Sardessai, Public Prosecutor for the State/Applicant.

Mr. S.D. Lotlikar, Senior Advocate with Ms. S. Naik, Advocate for the Respondent.

CORAM : S.A. BOBDE &
N.A. BRITTO, JJ.

DATE : 5TH JULY, 2004.

P.C.:

This is an application for special leave to appeal under Section 378 of the Code of Criminal Procedure. The State has prayed for leave to appeal against the Order of acquittal passed by the Assistant Sessions Judge, Panaji in Sessions Case No.13/2003. The accused was charged with culpable homicide not amounting to murder of her father-in-law Narayan. The accused is said to have beaten him with firewood. He expired the next day. The incident apparently took place

at home soon after the accused had just had her bath.

After considering the entire evidence including the defence version that there was a quarrel between the accused-daughter-in-law and her father-in-law, the deceased, on account of his spying on her while she was having a bath and in particular the evidence that the deceased is said to have slapped the accused and the undisputed fact that there is no evidence suggesting that the deceased had sustained any external injuries, after the alleged assault of 19.2.2003, the learned Assistant Sessions Judge granted the benefit of doubt to the accused and acquitted her.

It is clear that this is not a case where two views are not possible on the evidence. Nor, is it a case where only one view and that too one which points towards the guilt of the accused, is

possible.

Having considered the reasoning of the Assistant Sessions Judge and in particular the observations in paragraph 14 that there is no evidence suggesting that the deceased had sustained external injuries after the alleged assault on 19.2.2003 and having regard to the overall circumstances of the case, we hereby refuse leave under Section 378 of the Code of Criminal Procedure to appeal against the acquittal.

S.A. BOBDE, J.

N.A. BRITTO, J.

sl.